

08-30-01

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Patent

Attorney Docket: 265/225

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Attorney Docket No.: 265/225

First Named Inventor: Edgar A. Mendoza

Prior Application Information:

Serial No. 09/823,869

Examiner: \_\_\_\_\_

Art Unit: \_\_\_\_\_

Commissioner for Patents  
Box Patent Application  
Washington, D. C. 20231

## FILING UNDER 37 CFR § 1.53(b)

This is a request for filing for a

☒ continuation      ☐ divisional      ☐ continuation-in-part (CIP)

application under 37 CFR § 1.53(b) of pending prior application Serial No. 09/823,869, filed on March 30, 2001, which is a continuation-in-part of pending prior application Serial No. 09/574,840, filed on May 19, 2000, and pending prior application Serial No. 09/574,841, filed on May 19, 2000, by

**Edgar A. Mendoza, Lothar U. Kempen, and Frank W. Dabby, entitled:**

**INTEGRATED OPTIC DEVICES AND PROCESSES FOR THE  
FABRICATION OF INTEGRATED OPTIC DEVICES**

For CONTINUATION or DIVISION APPS only: The entire disclosure of the prior application, from which an oath or declaration is supplied, referenced above, is considered a part of the disclosure of the accompanying continuation or divisional application and is hereby incorporated by reference. The incorporation can only be relied upon when a portion has been inadvertently omitted from the submitted application parts.

LA203308.1

CERTIFICATE OF MAILING  
(37 C.F.R. §1.10)

I hereby certify that this paper (along with any referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as 'Express Mail Post Office To Addressee' in an envelope addressed to the Commissioner for Patents, Washington, D.C. 20231.

EL 740477472 US  
Express Mail Label No.

August 28, 2001  
Date of Deposit

Dora Demers  
Name of Person Mailing Paper

Dora Demers  
Signature of Person Mailing Paper

jc796 U.S. PTO  
08/28/01

J1036 U.S. PTO  
09/941349  
08/28/01

09941349-082801

## I. APPLICATION ELEMENTS ENCLOSED

71 Page(s) of Written Description  
24 Page(s) of Claims  
1 Page(s) of Abstract  
18 Sheet(s) of Drawings ☒ formal ☐ informal  
2 Page(s) of ☒ Declaration or ☐ Declaration and Power of Attorney

☒ Copy from prior parent application Serial No. 09/823,869, filed March 30, 2001 [37 CFR § 1.63(d)]

☐ Newly executed

Other:

- ☐ Assignment papers (cover sheet and documents(s))
- ☒ A copy of an Assignment to Optinetrics, Inc. that was filed on August 15, 2001, for recording against parent application Serial No. 09/823,869, filed March 30, 2001 is enclosed
- ☐ An Information Disclosure Statement, PTO 1449, ☐ with copies of cited items.
- ☒ Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i). Applicant must attach form PTO/SB/35

## II. FEE CALCULATION

- ☒ Applicant claims small entity status under 37 CFR 1.27.

<b>BASIC FILING FEE:</b>							<b>\$710.00</b>
Total Claims	154	-	20	=	134	x \$18.00	<b>\$2,412.00</b>
Independent Claims	13	-	3	=	10	x \$80.00	<b>\$800.00</b>
Multiple Dependent Claims	\$270	(if applicable)				<input checked="" type="checkbox"/>	<b>\$270.00</b>
<b>TOTAL OF ABOVE CALCULATIONS</b>							<b>\$4,192.00</b>
Reduction by ½ for Filing by Small Entity.							<input checked="" type="checkbox"/> <b>\$2096.00</b>
Misc. Filing Fees (Recordation of Assignment)							<b>\$0.00</b>
<b>TOTAL FEES DUE HERewith</b>							<b>\$2,096.00</b>

### III. PRIORITY - 35 USC § 119

- ☐ Priority of application Serial No. \_\_\_\_\_ filed on \_\_\_\_\_ in Country is claimed under 35 USC § 119.
- ☐ The certified copy has been filed in prior U.S. application Serial No. \_\_\_\_\_ on \_\_\_\_\_.
- ☐ The certified copy will follow.

**IV. AMENDMENTS**

- ☐ Cancel in this application original Claims \_\_\_\_\_ of the prior application before calculating the filing fee. (At least one original independent claim must be retained for filing purposes if no new claims are added in a preliminary amendment.)
- ☐ A Preliminary Amendment is enclosed. (Claims added by Amendment must be numbered consecutively beginning with the number next following the highest numbered original claim in the prior application.)

**V. RELATE BACK - 35 USC § 120**

- ☒ Relate back information included in the specification.
- ☒ This application is a continuation of Serial No. 09/823,869, filed March 30, 2001, which is a continuation-in-part of Serial No. 09/574,840, filed May 19, 2000, and Serial No. 09/574,841, filed May 19, 2000.
- ☐ Please amend the specification as follows:  

[Enter continuing data here]
- ☒ With respect to the prior co-pending U.S. application 09/823,869 from which this application claims benefit under 35 USC § 120, the inventor(s) in this application is (are) [37 CFR 1.53(b)(1)]:
  - ☒ the same.
  - ☐ less than those named in the prior application and it is requested that the following inventor(s) identified above for the prior application be deleted [see 37 CFR §§1.33(b) AND 1.63(d)(2)]:  

[Name(s) of inventor(s) to be deleted]

**VI. METHOD OF PAYMENT OF FEES**

- ☐ Attached is a check in the amount of \_\_\_\_\_.
- ☒ Charge Lyon & Lyon's Deposit Account No. 12-2475 in the amount of \$2,096.00.
- ☐ Not attached. No filing fee is submitted. [This and the surcharge required by 37 CFR § 1.16(e) can be paid subsequently.]

**VII. AUTHORIZATION TO CHARGE ADDITIONAL FEES**

The Commissioner is hereby authorized to credit Lyon & Lyon's Deposit Account No. 12-2475 for any over payment of fees and to charge the following additional fees by this paper and during the entire pendency of this application to Deposit Account No. 12-2475:

- ☒ 37 CFR § 1.16 (Filing fees and excess claims fees)
- ☐ 37 CFR § 1.17 (Application processing fees)
- ☐ 37 CFR § 1.21 (Assignment recordation fees)

**VIII. POWER OF ATTORNEY & CORRESPONDENCE ADDRESS**

- ☐ The power appears in the original papers in the prior application.
- ☒ The power does not appear in the original papers, but was filed on August 15, 2001 in prior application Serial No.09/823,869. A copy is enclosed.
- ☐ A new power has been executed and is attached.

Please send all correspondence to Customer Number 22249:



**22249**

PATENT TRADEMARK OFFICE

LYON & LYON LLP  
Suite 4700  
633 W. Fifth Street  
Los Angeles, CA 90071  
(213) 489-1600

Please direct all inquiries to David A. Randall, at the above Customer Number.

**IX. MAINTENANCE OF CO-PENDENCY OF PRIOR APPLICATION**

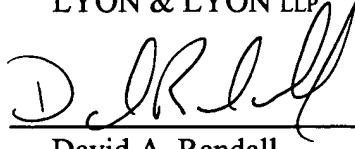
- ☐ A petition, fee and response has been filed to extend the term in the pending **prior** application until \_\_\_\_\_. A copy of the petition for extension of time in the **prior** application is attached.
- ☐ A conditional petition for extension of time is being filed in the pending **prior** application. A copy of the conditional petition for extension of time in the **prior** application is attached.

**X. ABANDONMENT OF PRIOR APPLICATION**

- ☒ Please abandon the prior application at a time while the prior application is pending or when the petition for extension of time or to revive in that application is granted and when this application is granted a filing date so as to make this application co-pending with said prior application. At the same time, please add the words "now abandoned" to the amendment of the specification set forth in Item V above.

Respectfully submitted,

LYON & LYON <sup>LLP</sup>

By:   
David A. Randall  
Reg. No. 37,217

Dated: August 28, 2001

Enclosures

Optinetrics, Inc.  
Name of Assignee

20410 Earl Street  
Address of Assignee

Title of the person authorized to sign on behalf of assignee: Frank W. Dabby

Assignment recorded in PTO on \_\_\_\_\_, Reel \_\_\_\_\_, Frame \_\_\_\_\_

109941349-082801

**REQUEST AND CERTIFICATION  
UNDER  
35 U.S.C. 122(b)(2)(B)(i)**

First Named Inventor	Edgar A. Mendoza
Title	INTEGRATED OPTIC DEVICES AND PROCESSES FOR THE FABRICATION OF INTEGRATED OPTIC DEVICES
Atty Docket Number	265/225

I hereby certify that the invention disclosed in the attached application **has not and will not be** the subject of an application filed in another country, or under a multilateral agreement, that requires publication at eighteen months after filing. I hereby request that the attached application not be published under 35 U.S.C. 122(b).

August 28, 2001

Date



Signature

David A. Randall, No. 37,217

Typed or printed name

This request must be signed in compliance with 37 CFR 1.33(b) and submitted with the application **upon filing**.

Applicant may rescind this nonpublication request at any time. If applicant rescinds a request that an application not be published under 35 U.S.C. 122(b), the application will be scheduled for publication at eighteen months from the earliest claimed filing date for which a benefit is claimed.

If applicant subsequently files an application directed to the invention disclosed in the attached application in another country, or under a multilateral international agreement, that requires publication of applications eighteen months after filing, the applicant **must** notify the United States Patent and Trademark Office of such filing within forty-five (45) days after the date of the filing of such foreign or international application. **Failure to do so will result in abandonment of this application (35 U.S.C. 122(b)(2)(B)(iii)).**